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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92059733
Party	Defendant METH LAB CLEANUP LLC
Correspondence Address	JULIE A MAZZUCA METHLAB CLEANUP LLC 2994 E SABLE COURT ATHOL, ID 83801 UNITED STATES rthornburg@addmg.com
Submission	Answer
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Date	09/11/2014
Attachments	2014-09-11 MLCC Answer to TTAB Cancellation Petition TM Reg No 3662396.pdf(35436 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BIO CLEAN, INC.)	Cancellation No. 92059733
3316 OLD HARTFORD ROAD, #A2)	Registration No. 3662396
LAKE STEVENS, WA 98223)	
)	
Petitioner,)	
)	
v.)	
)	
)	
METH LAB CLEANUP, LLC)	
2994 E. SABLE COURT)	
ATHOL, ID 83801)	
)	
Registrant-Respondent.		

REGISTRANT, METH LAB CLEANUP, LLC’S
ANSWER AND AFFIRMATIVE DEFENSES

Registrant, METH LAB CLEANUP, LLC (“MLCC” or “Registrant”), through its undersigned counsel, hereby submits its answer to the Petition for Cancellation, as follows:

STANDING

1. Denied.

BACKGROUND

2. Admitted that United States Trademark Registration 3,662,396 (the “Registration”) for the mark **METH LAB CLEANUP LLC** in International Class 41 was issued to Registrant by the United States Patent & Trademark Office (“USPTO”) on or about August 4, 2009. Otherwise, denied.

3. Without knowledge, therefore denied.

4. Admitted that, amongst other services, Registrant is a pioneer and leading national provider of training, evaluation, testing, and consulting on the remediation of hazardous and illegal drug lab sites.

5. Without knowledge, therefore denied.

6. Denied.

7. Without knowledge, therefore denied.

8. Admitted that Petitioners' website located at www.BioCleanWA.com notes that it "is a fully, licensed bonded and insured contractor [which] works under the authority of the Washington State Health Department." Further admit that according to <http://www.doh.wa.gov/CommunityandEnvironment/Contaminants/DrugLabs/CleanupCompanies.aspx> (last visited July 12, 2013) Petitioner is listed as a licensed contractor with the State of Washington Department of Health. Otherwise, without knowledge, therefore denied.

9. Without knowledge, therefore denied.

10. Without knowledge, therefore denied.

11. Denied.

12. Admitted that Registrant filed three trademark applications under Section 1(A) for the standard character mark **METH LAB CLEANUP LLC**, which included the following:

- Application Serial No. 77/271,496 on September 4, 2007 in International Class 41;
- Application Serial No. 77/273,693 on September 6, 2007 in International Class 40; and
- Application Serial No. 77/273,694 on September 6, 2007 in International Class 42.

Otherwise, denied.

13. Admitted that Registrant, in applying for Application Serial No. 77/271,496 identified a first use and first use in commerce date of as least as early as July 2003. Otherwise, denied.

14. Admitted that on or about December 10, 2007 an office action was issued regarding Application Serial No. 77/271,496 that included an initial refusal under Section 2(e)(1). Admitted that this Section 2(e)(1) basis was ultimately overcome by Registrant. Otherwise, denied.

15. Admitted that on or about December 10, 2007 an office action was issued regarding Application Serial No. 77/271,496 that included an initial refusal under Section 2(e)(1). Admitted that this Section 2(e)(1) basis was ultimately overcome by Registrant. Otherwise, denied.

16. Admitted that on or about June 9, 2008, a response to the December 10, 2007 office action was filed regarding Application Serial No. 77/271,496. Admitted that a second Office Action was issued despite the December 10, 2007 response to office action. Otherwise, denied.

17. Admitted.

18. Admitted.

19. Admitted that on or about November 12, 2008, the USPTO issued an Office Action regarding Application Serial No. 77/271,496 that included (a) an acceptance of Registrant's Section 2(f) claim, and (b) a request for disclaimer regarding the term "LLC apart from the mark as shown." Otherwise, denied.

20. Admitted that on or about August 4, 2009 the USPTO issued the Registration for the mark **METH LAB CLEANUP LLC** based upon Application Serial No. 77/271,496. Otherwise, denied.

GENERIC

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Admitted that Registrant has sought to enforce its rights under its six Federal Trademark Registrations, which have included six successful ICANN proceedings, one Federal litigation that resulted in a consent judgment in favor of Registrant, as well as numerous other settlements, including at least one settlement agreement recognizing the validity of the Registration. Otherwise, denied.

27. Without knowledge, therefore denied.

28. Denied.

MERELY DESCRIPTIVE

29. Denied.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Admitted that Registrant has sought to enforce its rights under its six Federal trademark registrations, which have included six successful ICANN proceedings, one Federal litigation that resulted in a consent judgment in favor of Registrant, as well as numerous other settlements, including at least one settlement agreement recognizing the validity of the Registration. Otherwise, denied.

FRAUD IN THE PROCUREMENT OF THE MARK

36. Denied.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

RELIEF SOUGHT

Registrant denies that Petitioner is entitled to the relief sought in its prayer for relief.

AFFIRMATIVE DEFENSES

1. Petitioner's claim is barred by the doctrines of waiver, acquiescence, laches, or estoppel.
2. Registrant has priority of use and trademark rights for its trademark in its field of use.

WHEREFORE, Registrant prays that this Petition for Cancellation be dismissed.

Respectfully submitted,

s/ Robert H. Thornburg

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by

Electronic Mail and U. S. Mail on September 11, 2014, to:

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s/ **Robert H. Thornburg**
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